

Application No. 10/773,436
Attorney's Docket No. 018798-192
Page 7

REMARKS

The Office Action of December 28, 2004, has been carefully reviewed, and in view of the above amendments and the following remarks, reconsideration and allowance of the pending claims are respectfully requested.

In the above Office Action, claims 1-3 and 13-16 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Murphy* (U.S. Patent No. 4,286,639), claims 19 and 20 were rejected under 35 U.S.C. § 102(a) as being anticipated by *Moran* (WO 0226579), claim 6 was rejected under 35 U.S.C. § 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over *Murphy*, and claims 1-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kolterjohn et al.* (U.S. Patent Pub. 2002/0063076A1) in view of *Moran*.

As set forth above, the independent claims of the present invention recite a container part having an inside and an outside and an opening for taking the absorbent article out of the packaging wrapper, a lid part having an open position and a closed position, wherein the lid part in the closed position closes the opening of the container part and is releasably attached to the outside of the container part, and a distance element is arranged between the lid part and the container part. The distance element has a width less than a width of the lid part, thereby raising the lid part away from the container part so as to enable positioning of a user's fingers under the lid part and thus facilitates opening of the packaging wrapper. Applicants respectfully contend that the prior art cited by the Examiner does not meet these limitations.

In the rejection of claims 1-3 and 13-16 as being anticipated by *Murphy*, the Examiner contends that the snap fastener 36/37 or hook-and-loop fastener 78 is

Application No. 10/773,436
Attorney's Docket No. 018798-192
Page 8

arranged between the lid part and the container part to facilitate opening of the wrapper 15. Referring to Fig. 2 of *Murphy*, the fastener 36/37 to which the Examiner refers is positioned on the inside surface of the lid 16. Hence, in order to access the fastener 36/37 the lid must already be in the open position, since a closed position, as defined in the claims, requires the lid part to be releasably attached to the outside of the container part. Accordingly, the fastener 36/37 does not facilitate opening of the packaging wrapper because lid of the packaging wrapper must already be open in order to access the fastener 36/37. Moreover, as shown in Fig. 3 of *Murphy*, the fastener 36/37 appears to hold the flap 34 in an immediately adjacent position to the back panel, and as such, would not raise the flap from the back panel so as to enable the insertion of a user's fingers. Thus, Applicants submit that claims 1-3 and 13-16 are not anticipated by *Murphy*.

The Examiner has also rejected independent claim 19 over *Moran*, which discloses a package having reclosable closures 18, 20 provided to seal the package 10 (page 7, lines 8-9). With reference to the figures, and as implied by the specification, in order to "seal" the package the closures must extend across the entire opening of the package. As such, even if, merely for the sake of argument, the closures 18, 20 would raise the lid away from the container, the ability thereof for the closures to facilitate opening would be lost since there would not be any available raised space into which the user could position their fingers. Thus, in contrast to the presently claimed invention, the closure of *Moran* upon which the Examiner relies does not have a width less than a width of the lid part, and thus, it would not raise the lid part away from the container part so as to enable positioning of a user's fingers under the lid part and facilitate opening of the packaging wrapper. Accordingly, Applicants submit that claims 19 and 20 are not anticipated by *Moran*.

Application No. 10/773,436
Attorney's Docket No. 018798-192
Page 9

Similarly, with regard to the rejection of claims 1-8 as being obvious over *Kolterjohn et al.* in view of *Moran*, the Examiner acknowledges that the primary reference to *Kolterjohn* "fails to disclose a distance element that is located between the lid part and the container part to facilitate opening of the wrapper." However, as explained above, Applicants submit that the closure of *Moran* upon which the Examiner relies does not have a width less than a width of the lid part, and thus, it would not raise the lid part away from the container part so as to enable positioning of a user's fingers under the lid part and facilitate opening of the packaging wrapper. Accordingly, Applicants submit that claims 1-18 are not rendered obvious by the cited prior art.

CONCLUSION

In view of the above amendments and remarks, Applicants respectfully submit that the claims of the present application are now in condition for allowance, and an early indication of the same is earnestly solicited.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference would be helpful in resolving any remaining issues pertaining to this application; the Examiner is kindly invited to call the undersigned counsel for Applicants regarding the same.

Respectfully submitted,

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